



**Department of Transportation**

**National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2016-0024; Notice 1]**

**Spartan Motors USA, Inc., Receipt of Petition for Decision of  
Inconsequential Noncompliance**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Spartan Motors USA, Inc. (Spartan), has determined that certain model year (MY) 2013-2015 Utilimaster Vans do not fully comply with paragraph S4.5.1(c) of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant crash protection*. Spartan Motors USA, Inc., filed a report dated January 15, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* for Spartan. Spartan then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

**DATES:** The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer

to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.  
Department of Transportation, Docket Operations, M-30,  
West Building Ground Floor, Room W12-140, 1200 New  
Jersey Avenue, SE, Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S.  
Department of Transportation, Docket Operations, M-30,  
West Building Ground Floor, Room W12-140, 1200 New  
Jersey Avenue, SE, Washington, DC 20590. The Docket  
Section is open on weekdays from 10 am to 5 pm except  
Federal Holidays.
- Electronically: Submit comments electronically by:  
logging onto the Federal Docket Management System  
(FDMS) website at <http://www.regulations.gov/>. Follow  
the online instructions for submitting comments.  
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a

stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible.

When the petition is granted or denied, notice of the decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.

All documents submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown at the heading of this notice.

DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Spartan submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Spartan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

**II. Vehicles Involved:** Affected are approximately 910 MY 2013-2015 Utilimaster Vans that were manufactured between July 11, 2014 and December 8, 2015.

**III. Noncompliance:** Spartan explains that the noncompliance occurred during alterations to the subject vehicles. During alterations the sun visors were removed and then reinstalled. As a result of the reinstallation, the required sun visor air bag warning labels are not visible when the sun visors are in the stowed position. Since the sun visor air bag warning labels are not visible when in the stowed position, an air bag alert label is required and therefore does not meet the requirements as specified in paragraph S4.5.1(c) of FMVSS No. 208.

**IV. Rule Text:** Paragraph S4.5.1(c) of FMVSS No. 208 requires in pertinent part:

S4.5.1(c) *Air bag alert label*. If the label required by S4.5.1(b) is not visible when the sun visor is in the stowed position, an air bag alert label shall be permanently affixed to that visor so that the label is visible when the visor is in that position. The label shall conform in content to the sun visor label shown in Figure 6(c) of this standard, and shall comply with the requirements of S4.5.1(c) (1) through S4.5.1(c) (3)...

**V. Summary of Spartan's Petition:** Spartan described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

- (a) Spartan cited the definition of motor vehicle safety as stated in the Safety Act under 49 U.S.C. §30111(a). Spartan also cited 49 U.S.C. §30118(d) under the Safety Act where Congress acknowledges that there are cases where a manufacturer has failed to comply with a safety standard, yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Safety Act is justified.
- (b) Spartan stated that S4.5.1(b) (2) of FMVSS No. 208 requires an air bag warning label to be installed, at the manufacturer's option, on either side of the sun visor at each outboard seating position equipped with an inflatable restraint. Within that same section of FMVSS No. 208, it states that air bag warning labels are to be installed, at the manufacturer's option, in accordance with Figure 8 or

11 of the standard. Footnotes under Figures 8 and 11, among others, state "Sun Visor Label Visible when Visor is in Down Position."

Spartan submitted a photograph depicting that the air bag warning label on the subject vehicles is visible when the sun visor is in the down position, however, the content is inverted.

- (c) Spartan specified that the content of the sun visor label identifies the risks associated with the placement of children, or child seats, encourages the use of seatbelts, and defers to the owner's manual for information pertaining to the air bags.

Spartan notes that they are a vehicle alterer in this case and are not responsible for the content of the air bag warning label and that they make no assertions relating to compliance of the label. However, during alterations to the vehicles they do remove and reinstall the sun visors.

- (d) Spartan also stated that they alter a completed vehicle (in this case a van) to become a vocational vehicle intended to be used as a delivery service vehicle (i.e., a vehicle used to carry parcel packages or other goods.) And although, the altered vehicle would be equipped with two outboard seating positions, delivery service vehicles are typically occupied by the driver who has a specific purpose of delivering

goods. Given the nature of, or intended use, the vehicle, it would be unlikely for children to be placed in the passenger seating area.

- (e) Spartan clearly expressed that they do not alter information in the owner's manual although it may provide supplements related to the alterations being made. Spartan says that the content in the owner's manual states that the air bag system is supplemental to the seat belts and further describes risks associated with the air bag system. Furthermore, the information in the owner's manual discusses an air bag warning indicator (tell-tale) of which the vehicle is equipped and its function (this indicator would provide indication to the driver that the vehicle is equipped with an air bag system.)
- (f) Spartan believes that while the content on the sun visor warning label (although not provided by Spartan) may not be in the upright position to be easily read by the occupants, it is visible with the sun visor in the down position. And even though the label is inverted, the coloring scheme would continue to signify risks associated with the air bag system.

Spartan elaborated by saying that the information within the owner's manual for the affected vehicles expands on potential risks related to the system but also

encourages the use of seatbelts as the primary purpose of occupant protection.

Spartan additionally informed NHTSA that on December 8, 2015 containment actions were conducted and all units in control of Utilimaster were inspected and the noncompliance corrected. This included vehicles currently undergoing alterations.

In summation, Spartan believes that given the vocational use of the affected vehicles and information provided in the foregoing that the subject noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt Spartan from providing notification of the noncompliances as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Spartan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the



sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Spartan notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Jeffrey M. Giuseppe,**  
*Director,*  
*Office of Vehicle Safety Compliance.*

**BILLING CODE 4910-59-P**

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